

## **REMARKS CONCERNING THE AMENDMENTS**

The above amendments were made in an effort to more clearly define the presently claimed technology. Antecedent basis for the amendments may be found generally in the specification and, for example,

Page 4 where it is stated:

“Upon viewing a player’s card, that player estimates the likelihood of successfully receiving a card (and subsequent cards, one-at-a-time) that are sequentially higher in rank.”

Page 73 where it is stated:

“It should be apparent to one of ordinary skill in the art that the game could be played in reverse, with players attempting to take hits to obtain a card of lower value than the previous card.”

Page 5, where it is stated:

“If a player receives a card lower than the previously displayed card, that hit is considered a bust, and the player loses the wager on that round of play.”

Claims 4 and 5, indicated as allowable if placed into independent form and the issues under 35 USC 112, resolved, have been amended to effect those changes.

As the issues under 35 USC 112, have been resolved, claims 4-7, 12-16 and 26-27 in particular, and every other claim in the application, are in condition for allowance.

## **SUMMARY OF THE OFFICE ACTION**

1. Claims 1-29 have been rejected under 35 USC 112, second paragraph as containing indefinite words and phrases.
2. Claims 1-3, 17-20 and 23-25 have been rejected under 35 USC 102(b) as anticipated by blackjack.
3. Claims 8 and 9 have been rejected under 35 USC 103(a) as unpatentable over blackjack in view of Mostashari (US Patent No. ).
4. Claims 10, 11, 22 and 23 have been rejected under 35 USC 103(a) as unpatentable over blackjack in view of Lofink.
5. Claims 28 and 29 have been rejected under 35 USC 103(a) as unpatentable over blackjack in view of Vancura.
6. Claims 4-7, 12-16 and 26-27 have been indicated as allowable if the 35USC112 rejections are overcome.

## **RESPONSE TO THE REJECTION**

1. Claims 1-29 have been rejected under 35 USC 112, second paragraph as containing indefinite words and phrases. The assertion of indefiniteness asserts that large sections of the claims are indefinite and points specifically to specific terms listed below:

- a. "hit card"
- b. "specific relationship in rank"
- c. "maximum number of hits"
- d. "the game according to the rules of play" and
- e. "busts"

The term "hit card" has been replaced in all instances.

The specific relationship in rank has been specifically defined a sequentially higher or sequentially lower in rank than the preceding card.

The "maximum number of hits" has been replaced by "the mximum number of additional cards allowed."

The phrase "the game according to the rules of play" has been deleted in all occurrences.

The term "bust" or "busts" has been defined in its first occurrence in each independent claim.

Each objectionable word or phrase has ben addressed by the amendments to the claims.

2. Claims 1-3, 17-20 and 23-25 have been rejected under 35 USC 102(b) as anticipated by blackjack.

Neither original claim 1 nor amended claim 1 I anticipated by the play of blackjack. A side-by-side comparison will clearly establish this.

CLAIM 1	BLACKJACK	COMMENTS
A method of playing a wagering game with playing cards in which a dealer competes against a player, the game comprising: at least one player placing a wager on the game;		This step is common with blackjack
the a least one player and the dealer each receiving a single card with a rank from a set of cards to form an at least one player hand and a dealer hand;	It is required that two cards be received by the player and the dealer before a hand is formed.	In blackjack, both the player and the dealer receive an initial two cards, not a single card.
the at least one player taking at least one mandatory additional card	The player has absolute control and an option as to whether or not to take any additional cards after the first two cards are received.	
attempting to receive a first additional card having a specific relationship in rank to the single card in the at least one player hand, the specific relationship being selected from the group consisting of cards being sequentially higher in rank and sequentially lower in rank;	Blackjack is based entirely on the total count of points in the hand, and there is no concept of the relative rank of cards.	The play of blackjack has no concept of sequential cards having relative rank wit
if the at least one mandatory additional card has the specific relationship in rank to the single card, or if the at least one mandatory additional card allows the at least one player to continue the game, the player exercises an option of taking another additional card or standing, attempting to receive another additional card having a	Blackjack takes cards with respect to total point count.	There is no consideration in blackjack of specific relationships of being sequentially higher or lower than a previous card.

specific relationship in rank to the first additional card;		
when the player has elected to take no more additional cards or has taken a maximum number of additional cards allowed,	There are no maximum numbers of cards allowed in blackjack, only a maximum number of points, i.e., in excess of 21 points.	
attempting again to receive successive additional cards having the specific relationship to a previous additional card,	Cards are used to total points accumulated.	Blackjack never considers specific relationships to previous additional cards.
but has not taken a card that busts the at least one player's hand by not having the specific relationship to the previous additional card,	Busts in blackjack are based solely on exceeding a count of 21.	
the dealer takes at least one mandatory additional card attempting to receive a first additional card having a specific relationship in rank to the single card in the dealer's hand,	The dealer's hand in blackjack begins with two initial cards.	The first dealer additional and mandatory card does not attempt to evidence a relationship with the first single card.
the dealer taking additional cards attempting again to receive successive additional cards having the specific relationship to a previous additional card until the dealer busts by not having the specific relationship to the previous additional card,		The first dealer additional and mandatory card does not attempt to evidence a rank relationship with any previous card.
until the dealer has taken a maximum number of additional cards allowed, or until the dealer has received a total number of cards that exceeds the total number of cards in all players' hands in the game; and		Dealers don't consider maximum cards, but maximum point totals.
resolving the wager on the game.		All wagering games resolve wagers.

As can be seen from this comparison, there is absolutely no basis for finding that the claimed invention is anticipated by the game of blackjack.

3. Claims 8 and 9 have been rejected under 35 USC 103(a) as unpatentable over blackjack in view of Mostashari.

As it has been shown above in the consideration of blackjack that the fundamental steps and concepts of the Keep 'Em Coming game are neither taught nor anticipated by blackjack, and the addition of Mostashari does not overcome that fundamental failure, even if it does teach the subject matter asserted.

4. Claims 10, 11, 22 and 23 have been rejected under 35 USC 103(a) as unpatentable over blackjack in view of Lofink.

As it has been shown above in the consideration of blackjack that the fundamental steps and concepts of the Keep 'Em Coming game are neither taught nor anticipated by blackjack, and the addition of Lofink does not overcome that fundamental failure, even if it does teach the subject matter asserted.

5. Claims 28 and 29 have been rejected under 35 USC 103(a) as unpatentable over blackjack in view of Vancura.

As it has been shown above in the consideration of blackjack that the fundamental steps and concepts of the Keep 'Em Coming game are neither taught nor anticipated by blackjack, and the addition of Vancura does not overcome that fundamental failure, even if it does teach the subject matter asserted.

6. Claims 4-7, 12-16 and 26-27 have been indicated as allowable if the 35USC112 rejections are overcome.

Those issues under 35 USC 112 have been overcome.

## **CONCLUSION**

The above claims detail limitations that are neither taught nor obvious from the teachings of blackjack and all issues have been removed. The amended claims are therefore patentable.

If the Examiner believes that any remaining issues may be resolved by telephone interview, **particularly any issues remaining under 35USC112,second paragraph**, he is courteously invited to call the attorney of record at **952.832.9090** to resolve those issues.

Respectfully submitted,

KATHLEEN JACKSON

By Her Representatives,

MARK A. LITMAN & ASSOCIATES, P.A.

York Business Center, Suite 205

3209 West 76<sup>th</sup> Street

Edina, Minnesota 55435

(952) 832-9090

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By: 

Mark A. Litman

Reg. No. 26,390